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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**MITSUMARO MOTOYOSHI, P.T.
130 Oak Ravine Way
Folsom, CA 95630**

Physical Therapy License No. PT 26300,

Respondent.

Case No. 1D 2006 64757

A C C U S A T I O N

Complainant alleges:

PARTIES

1. Steven K. Hartzell ("Complainant") brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California ("Board").
2. On or about July 9, 2001, Physical Therapy License number PT 26300 was issued by the Board to respondent Mitsumaro Motoyoshi (hereinafter "respondent"). At all times relevant to this proceeding, said license has been in full force and effect and will expire unless renewed on July 31, 2009. By order dated May 16, 2005, respondent was publically reproved by the Medical Board. (See, *In the Matter of the Accusation Against Mitsumaro Motoyoshi, P.T.*, MBC Case No. 1D-2002-62962.)

1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the
3 following sections of the Business and Professions Code:

4 A. Section 2609 of the Code provides that the Physical Therapy Board
5 shall take action against any licensee who is charged with unprofessional conduct.

6 B. Section 2660 of the Code provides, in part, as follows:
7 “The board may, after the conduct of appropriate proceedings under the
8 Administrative Procedure Act, suspend for not more than 12 months, or revoke, or
9 impose probationary conditions upon any license, certificate, or approval issued
10 under this chapter for unprofessional conduct that includes, but is not limited to,
11 one or any combination of the following causes:”

12 * * * *

13 (i) Conviction of a violation of any of the provisions of this
14 chapter or of the State Medical Practice Act, or violating, or
15 attempting to violate, directly or indirectly, or assisting in or
16 abetting the violation of, or conspiring to violate any provision or
17 term of this chapter or of the State Medical Practice Act.

18 C. Section 726 of the Code states:
19 “The commission of any act of sexual abuse, misconduct, or relations with a
20 patient, client, or customer constitutes unprofessional conduct and grounds for
21 disciplinary action for any person licensed under this division, under any initiative
22 act referred to in this division and under Chapter 17 (commencing with Section
23 9000) of Division 3.

24 “This section shall not apply to sexual contact between a physician and surgeon
25 and his or her spouse or person in an equivalent domestic relationship when that
26 physician and surgeon provides medical treatment, other than psychotherapeutic
27 treatment, to his or her spouse or person in an equivalent domestic relationship.”

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1 D. Section 2660.1 of the Code provides, in part, that “[a] patient,
2 client, or customer of a licentiate under this chapter is conclusively presumed to be
3 incapable of giving free, full, and informed consent to any sexual activity which is a
4 violation of Section 726.”

5 **RECOVERY OF COSTS**

6 4. Section 125.3 of the Code provides, in part, that the Physical Therapy
7 Board may request the administrative law judge to direct a licentiate found to have committed a
8 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
9 investigation and enforcement of the case.

10 5. Section 2661.5 of the Code provides, in part, that the Board may request
11 the administrative law judge to direct any licentiate found to have committed a violation or
12 violations of the licensing act to pay the Board the sum not to exceed the reasonable costs of the
13 investigation and prosecution of the case.

14 6. Respondent has engaged in conduct constituting violations of Code section
15 2660(i) of the Physical Therapy Practice Act and Code section 726, as set forth in greater detail
16 herein below.

17 **FIRST CAUSE FOR DISCIPLINE**
18 **(Unprofessional Conduct/Sexual Abuse/Sexual Relations with a Patient)**
19 **[Bus. & Prof. Code §§ 2660 (i) and Code section 726]**

20 7. Respondent is subject to disciplinary action under section 726 of the Code
21 in that respondent committed acts of sexual abuse, misconduct, or relations with a patient. The
22 circumstances are as follows:

23 8. On or about April 2000, Patient 1¹ presented to respondent - who then
24 worked as a physical therapist for a company in downtown Sacramento - for physical therapy
25 with complaints of pain in the lower back, hip, and ankle. The patient had been training for a
26 marathon and was recommended to respondent by her running coach. The physical therapy
27 sessions began two to three times per week and then progressed to two times per week. On or

28 1. The patient’s name is not included but is identified as “Patient 1” in order to protect
patient confidentiality. The patient’s full name and medical record will be provided upon
receipt of a properly executed and served Request for Discovery.

1 about 2004 respondent opened his own business in Folsom, California, as a physical therapist
2 and continued to provide care and treatment to Patient 1 at that location. During one of these
3 therapy sessions in November 2004, Patient 1 removed her blouse and respondent fondled her
4 breasts. The following week, while in therapy, and in the physical therapy room, respondent and
5 Patient 1 had sexual intercourse. From November 2004 until on or about January 2006,
6 respondent and Patient 1 engaged in multiple acts of sexual intercourse, including multiple acts
7 of oral copulation, during regularly scheduled physical therapy sessions.

8 9. Respondent's conduct as set forth in paragraph 8, above, separately and
9 collectively constitute unprofessional conduct in violation of sections 2660(i) and Code section
10 726, in that respondent had sexual relations with a patient.

11 **PRAYER**

12 **WHEREFORE**, Complainant requests that a hearing be held on the matters
13 herein alleged, and that following the hearing, the Physical Therapy Board issue a decision:

14 1. Revoking or suspending License Number PT 26300 issued to Mitsumaro
15 Motoyoshi, PT.

16 2. Ordering Mitsumaro Motoyoshi, P.T., to pay the Physical Therapy Board
17 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
18 Professions Code section 2661.5, including the cost of probation monitoring.

19 3. Taking such other and further action as deemed necessary and proper.
20

21 DATED: August 17, 2007.

24 Original Signed By: _____
25 STEVEN K. HARTZELL
26 Executive Officer
27 Physical Therapy Board of California
28 State of California, Complainant